

Title 13**STREETS AND SIDEWALKS****Chapters:**

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Chapter 13.04**CONSTRUCTION AND REPAIR*****Sections:**

- 13.04.010 Installation of sidewalks--General.**
- 13.04.020 Deferral of sidewalk construction.**
- 13.04.025 Procedures for deferral of sidewalk construction.**
- 13.04.030 Design and construction of sidewalks.**

13.04.010 Installation of sidewalks--General. This chapter is adopted pursuant to the authority provided in Wis. Stats. 66.615(7). Subject to other provisions of this chapter, sidewalks shall be constructed as follows:

A. Within new subdivisions, as provided in Section 17.12.280 of this code. The provisions of s. 13.04.020, entitled "Deferral of sidewalk construction," and s. 13.04.025, entitled "Procedures for deferral of sidewalk construction," shall not apply to this subsection A. for the construction of sidewalks within new subdivisions.

B. Abutting any lot described on a certified survey map under Wis. Stats. s. 236.34, or any other unplatted lot, at the time when the main building on the lot is initially constructed or when it is entirely reconstructed or replaced. Prior to issuance of a building permit for such construction, reconstruction or replacement, the property owner shall execute and file with the city Administrator of Inspections and Zoning a written document certifying installation of a public sidewalk abutting such lot or execute a petition to the city for such installation and the levy of special assessments in connection therewith and waiving notice and hearing pursuant to Wis. Stats. s. 66.60 (18).

* For provisions of general municipality law authorizing city councils to require sidewalks and to provide rules for their grade, construction, maintenance and repair, see WSA 66.615; for provisions of general charter law regarding street improvement and repair, see WSA 62.16.

- C. Along streets lying within one-half mile of a public or private elementary or secondary school;
- D. Along any street or portion of street which is classified by the city council as a collector street or arterial street under the functional street classification system of the city;
- E. Where the installation of a sidewalk will connect previously constructed and existing sidewalks within the immediate area;
- F. When property owners who own over one-half of the frontage along a street file a petition with the city requesting that sidewalks be installed along such frontage; and
- G. At such other locations where the city council determines that one or more of the following conditions exist:
 - 1. Vehicular and pedestrian conflicts present a potential danger to the health and safety of persons; or
 - 2. The number of small children, senior citizens or other persons having special needs reside on a street and require a sidewalk to assure their safety; or
 - 3. Parks, playgrounds or other locations exist which are attractive to large numbers of children and are not served by sidewalks thereby resulting in an immediate danger to the health and safety of such children. (Ord. 6285 §1, 2002; Ord. 4510 §1, 1984).

13.04.020 Deferral of sidewalk construction. Sidewalk shall be constructed in all locations as outlined in section 13.04.010, except the city council retains the authority to review any sidewalk proposal and to designate procedures to defer the construction thereof whenever it is deemed necessary and desirable. A deferral shall not constitute a permanent waiver of sidewalk construction, and the city council may review and reconsider the need for construction at any time. Sidewalk construction may be deferred in the following situations:

- A. Where the construction would be along a cemetery, outlying industrial property, or in any other area where little or no pedestrian use is reasonably anticipated;
- B. Where the owner of the property adjacent to the street elects to provide an alternative pedestrian facility which is acceptable and approved;
- C. When it is determined that the construction of sidewalk is not feasible or practical due to topographical or other physical constraints; or
- D. When it is found that construction of sidewalk would not serve the public interest, safety or convenience. (Ord. 4981, 1989; Ord. 4510 §2, 1984).

13.04.025 Procedures for deferral of sidewalk construction. All requests for deferral of sidewalk construction shall be submitted in writing to the department of public works. Applications for deferral of sidewalk construction shall be processed as follows:

- A. The director of public works is authorized to approve the deferral of sidewalk construction under the following circumstances:
 - 1. Where the location is on a cul-de-sac or dead-end street of 750 feet or less in length and no other sidewalk exists on the cul-de-sac or dead-end street segment;
 - 2. Where development is substantially complete in the area and no other sidewalk exists on the street segment;
 - 3. Where the location is a remote rural area and no sidewalk exists or is planned to be constructed in the near future;
 - 4. In locations where the city has programmed or scheduled street construction as part of the capital improvement program; or
 - 5. Where topography, street grades or physical constraints make the construction impractical.

B. Decisions rendered by the director of public works may be appealed by the applicant to the city council for consideration and determination by the council.

C. All applications for deferral of sidewalk construction for reasons not included in subsection 13.04.025 A. shall be submitted to the city council for review, consideration and determination.

D. Locations where construction of sidewalk is deferred shall be subject to the following conditions:

1. A concrete sidewalk section shall be constructed at the time the driveway is constructed in the location and at an elevation established by the department of public works which is calculated to accommodate a possible future sidewalk in the location.

2. The terrace and yard area shall be graded to meet a possible future sidewalk in the location and elevation established by the department of public works. This subsection shall not apply where sidewalk construction is not practical for topographic reasons. (Ord. 4981, 1989).

13.04.030 Design and construction of sidewalks. A. Sidewalks shall be constructed in accordance with city specifications as established by the Department of Public Works. Subject to the provisions of subsection B, and unless as otherwise directed by the Director of Public Works, the width of all sidewalks in residential areas shall be 5 feet. The sidewalk width in all other areas shall be established by the Director of Public Works.

B. The design of sidewalks shall be flexible and shall be adapted to suit the particular needs of the area within which they are constructed. The materials used and designs employed in connection with sidewalk construction shall be consistent with topography and aesthetics. Trees shall not be removed in order to construct sidewalks unless their removal is reasonably necessary in order to accommodate such construction, as determined by the Director of Public Works. If a boulevard exists, as much space as possible shall be retained on it to provide for the storage of snow. (Ord. 4510 §1, 1984).

Chapter 13.10

STREET EXCAVATIONS AND OPENINGS

Sections:

13.10.010 Definitions.

13.10.020 Permit required.

13.10.030 Permit--When not required.

13.10.040 Bond.

13.10.050 Insurance.

13.10.060 Regulations governing excavations.

13.10.070 Street opening fees.

13.10.080 Excavation in new streets limited.

13.10.090 Emergency excavations authorized.

13.10.100 Settlement of pavement and surfacing.

13.10.110 Denial of permits.

13.10.010 Definitions. In this chapter, the following words and phrases shall have the meanings designated as follows, unless the context clearly indicates otherwise:

A. "Alley" means the right-of-way dedicated or reserved for alley purposes.

- B. "Block" means the distance along a street lying between center lines of intersections.
- C. "Department" means the city department of public works.
- D. "Director" means the city director of public works.
- E. "Excavation" means any operation in any alley, street or public place in which earth, rock or any other material in or on the ground is moved, removed or otherwise displaced by means of any tool, equipment or explosive, and includes grading, trenching, digging, ditching, drilling, augering, tunneling, scraping, cable or pipe plowing and driving.
- F. "Installation" means either an individual storm sewer, sanitary sewer, water main and associated services, public utility facility, or any combination thereof, laid simultaneously, in a single excavation or in more than one excavation, or in a tunnel, through a bored or jacked operation.
- G. "Pavement" means the surface of any street, alley, or public place, regardless of the type of material utilized in its construction.
- H. "Public place" means any property owned by the city and dedicated or reserved to the city for public purposes.
- I. "Street" means the right-of-way dedicated or reserved for street purposes, which may include such surface improvements as pavement, sidewalk, curb, gutter, grassed or landscaped terrace and boulevard.
- J. "Surfacing" means any improvement other than pavement lying on or within a street, alley or public place, such as sidewalk, curb, gutter, turf, grass and landscaping. (Ord. 5130, 1991).

13.10.020 Permit required. No person shall make or cause to be made any excavation in any street, alley or public place in the city of Eau Claire, without first obtaining a permit from the department. (Ord. 5130, 1991).

13.10.030 Permit - When not required. Contractors performing excavation work while under city contract are not required to obtain a permit under this chapter for such work unless a permit is specifically required by the city. (Ord. 5130, 1991).

13.10.040 Bond. Before the issuance of a permit under section 13.10.020, the applicant shall execute and file with the city clerk and keep in effect a corporate surety bond or security deposit in the minimum sum of five thousand dollars (\$5,000) conditioned upon the timely and faithful performance of all requirements and conditions of this chapter and of any permit issued to the applicant. The effective period of the bond or security shall be a minimum of two years. (Ord. 5130, 1991).

13.10.050 Insurance. All applicants for a permit shall carry general liability insurance and completed operations insurance, with a minimum combined single limit of \$300,000 for bodily injury and property damage per occurrence. The insurance policy shall be filed with the city clerk and shall provide for thirty (30) days notice to the city prior to expiration. (Ord. 5130, 1991).

13.10.060 Regulations governing excavations. A. No excavation in any alley, street or public place for any purpose shall be permitted when the ground is frozen, except where necessary, as determined by the director.

B. In opening any alley, street or public place, all pavement and surface improvements shall be removed with the least possible loss of or injury to the surfacing material, and, together with excavated material, shall be placed so as to cause the least practicable inconvenience to the public and as to permit free flow of water along gutters.

C. Each excavation shall be enclosed with sufficient barricades and barriers. All machinery and equipment shall be locked or otherwise effectively safeguarded from unauthorized use when not being used by the permittee, his agents or employees. All barricades shall comply with the following standards:

1. Barricades and construction warning signs shall be constructed and reflectorized in conformance with the Manual on Uniform Traffic Control Devices for Construction Zones (MUTCD), latest edition and revisions.

2. All barricades used at night shall be lighted with at least one red flasher per barricade.

3. Each barricade shall have the name, address and telephone number of the excavating contractor or barricade rental agency marked prominently thereon. The telephone number shall enable contact to be made with the contractor or authorized representative twenty-four hours per day.

D. All necessary precautions shall be taken to guard the public effectively from accidents or damage to persons or property during the permitted work. Each person making such excavation shall be held liable for all damages, including costs incurred by the city in defending any action brought against it for damages, as well as the cost of any appeal, that may result from the neglect by such person or employee of any necessary precaution against injury or damage to persons, vehicles or property.

E. If the excavation requires closing of a street or alley, the department shall be notified at least 24 hours prior to the proposed closing, except in the case of an emergency excavation. Detour routes shall be approved by the department before a permit is granted. All barricades and detour signs shall be furnished and maintained by the contractor or utility company. If the city is required to establish the detour route, provide signing or traffic control measures, the cost of such services provided shall be billed to the contractor or utility company.

F. All backfilling shall be completed in accordance with the specifications and requirements established by the department. Any excavated material which in the opinion of the director is not suitable for refilling shall be replaced with approved backfill material.

G. Sheathing shall be required for all excavations within all streets other than those having gravel or oiled surfaces, and shall be constructed and maintained in accordance with all applicable OSHA standards. No timber, bracing, lagging, sheathing or other lumber shall be left in any trench.

H. Upon completion of work, all streets, alleys or public places shall be restored to a condition equal to or better than existed prior to the excavation.

I. The permittee may elect to have the city make the pavement repair following an excavation. In such case, as an express condition of granting the permit, the cost of making such repair and maintaining the same for two years following the completion of the repair shall be charged to the permittee.

J. All persons excavating in a street, alley or public place shall comply with Wisconsin Statutes s. 182.0175 to provide advance notice, as required thereunder, to underground facility owners who may be affected by the excavation. (Ord. 5130, 1991).

13.10.070 Street opening fees. A fee, as stated in the City of Eau Claire Fees and Licenses Schedule, shall be charged for street opening repairs in city streets, alleys or public places. The fee shall be determined according to the number of square feet or lineal feet or fraction thereof of pavement type and quality required to restore the pavement or surface to its original condition. (Ord. 6363 §33, 2002; Ord. 5130, 1991).

13.10.080 Excavation in new streets limited. After completion of any permanent improvement or repaving of any street, alley or public place, no permit shall be issued to open, cut or excavate said pavement for a period of 5 years after the date of completion of the pavement improvement or repair unless, in the opinion of the director, an emergency exists which makes it essential that the permit be issued. (Ord. 5130, 1991).

13.10.090 Emergency excavation authorized. In the event of an actual, bona fide emergency, any person owning or controlling any sewer, water main, conduit or utility in or under any street or alley, or such person's agents or employees, may take immediate, appropriate emergency measures to remedy conditions endangering property, life, health or safety without obtaining a permit under this chapter. Such person shall apply for an excavation permit not later than the end of the next working day following the undertaking of such measures. (Ord. 5130, 1991).

13.10.100 Settlement of pavement and surfacing. Regardless of who installed the same, the permittee shall be responsible for the cost of replacement and restoring the grade of pavement or surfacing which has settled within 2 years from the date of completion of backfilling. If following notice thereof by the city, the permittee fails to replace the inferior work, the city shall perform the work and charge the permittee for the actual costs thereof, plus an administrative charge as stated in the City of Eau Claire Fees and Licenses Schedule. Each successive replacement by the permittee shall be subject to the requirements of this section. (Ord. 6363 §33, 2002; Ord. 5130, 1991).

13.10.110 Denial of permits. If any contractor fails to comply with the requirements of this chapter, such performance shall be considered by the department before further excavation permits are granted. If the record indicates substantial or repeated disregard for the provisions of this chapter, further excavation permits may be denied, following provisions for adequate notice and hearing as may be required under Wisconsin Statutes Chapter 68. (Ord. 5130, 1991).

Chapter 13.12

STREET USE

Sections:

13.12.010 Fires in streets.

13.12.020 Playing games.

13.12.025 Skateboards, roller skates, roller skis, in-line skates or similar equipment.

13.12.030 Warning lights required when.

13.12.040 Tampering with barricades or lights.

13.12.050 Hauling loose, dry materials.

13.12.055 Dumpsters and roll-off boxes in the public right-of-way.

13.12.060 Sale of goods.

13.12.062 Sidewalk cafe permit.

13.12.065 Sidewalk cart food vendors.

13.12.070 Violation--Penalty.

13.12.010 Fires in streets. A. It is unlawful in any street or alley in the city for any person to burn any rubbish, leaves or other combustible material at any time.

B. Any person or persons found guilty of violating the provisions of this section shall be punished by a fine of not less than five dollars and the costs of prosecution. (Prior code §5.04).

13.12.020 Playing games. No person or persons shall, within the city, take part in any game of ball on a public street or alley, nor shall any person or persons take part in tossing or throwing a ball, flying a kite or in other game or play on any public street or alley which shall tend to impede or endanger public travel thereon, which may be dangerous to the safety of such person or persons, or which may be contrary to the interest of public safety. (Prior code §5.08).

13.12.025 Skateboards, roller skates, roller skis, in-line skates or similar equipment. A. It shall be unlawful for any person to operate or ride a skateboard, roller skates, roller skis, in-line skates or similar equipment in any of the following places:

1. On any city street, except as provided in s. 9.76.055.
2. On any sidewalk in a business district. For purposes of this section, a business district shall be defined as any area primarily commercial in nature.
3. In any public parking ramp or parking lot, except as provided in s. 9.76.055.
4. On private property, unless permission has been received from the owner, lessee or person in charge of that property.
5. On any public step, railing, wall, or any appurtenance to a public way, including any such use by a bicycle or snowboard.

B. Operators or riders of skateboards, roller skates, roller skis, in-line skates or similar equipment shall yield the right of way to other pedestrians using city sidewalks or the bicycle way, and shall not otherwise endanger or interfere with normal pedestrian traffic on those sidewalks or the bicycle way.

C. This section shall not include motor scooters. The operation of motor scooters is regulated pursuant to chapter 10.09 of this code. (Ord. 6438 §5, 2003; Ord. 6161, 2001; Ord. 5745 §2, 1997; Ord. 5260, 1992; Ord. 4644, 1986).

13.12.030 Warning lights required when. A. Every person, firm or corporation or the agent of any person, firm or corporation who receives permission from the superintendent of streets to place any building materials or other obstructions upon any street or highway in the city shall place and maintain upon or around such material or other obstruction each night from time of sunset until sunrise, while the same is upon the street or highway, sufficient lights to warn all persons riding, driving or passing along said street or highway of the presence of such material or obstruction.

B. Any person violating the provisions of this section shall, upon conviction, be punished by a fine of not less than five dollars and not more than fifty dollars, and costs of prosecution. (Prior code §5.09).

13.12.040 Tampering with barricades or lights. A. No person or persons shall knock down, destroy or injure any barrier, light or other protection in and upon streets, alleys and public places under construction or improvement in the city; nor shall any person walk, drive upon or in any way injure, disfigure or destroy any pavement upon any street, alley or public place not opened by the superintendent of streets for public use or travel; nor shall any person knock down, destroy or injure any manhole, water hydrant or catch basin in or upon any of the public streets or alleys in the city.

B. Any person or persons found guilty of violating any of the provisions of this chapter shall pay a fine not to exceed one hundred dollars, and the costs of prosecution; and in default of the payment of such fine and costs, by imprisonment in the county jail of Eau Claire County until such fine and costs are paid, not exceeding ninety days. (Prior code §5.10).

13.12.050 Hauling loose, dry materials. A. Any person who is engaged in drawing upon any public street crushed stone, sand, gravel, sawdust, ashes, cinders, lime, tanbark, shavings, waste paper, ice, mortar, coal, earth, rubbish, manure or other loose material likely to sift, fall or be blown upon the streets shall convey and carry the same in tight wagon or truck boxes, and in case the same fall or be scattered in any street, such person shall cause it to be forthwith removed.

B. No person shall cause or permit any automobile, wagon or other vehicle to be loaded and heaped up so that contents or any part thereof shall be scattered in any street or other public place in the city.

C. Any person violating any of the provisions of this section shall be fined not less than one dollar nor more than ten dollars and the costs for each offense, and in case of nonpayment of such fine and costs, shall be imprisoned in the county jail not less than five days nor more than twenty days. (Prior code §5.11)

13.12.055 Dumpsters and roll-off boxes in the public right-of-way. A. No person, firm or corporation, or the agent of any person, firm, or corporation, shall place a dumpster or roll-off box in the public right-of-way without first obtaining a permit from the department of public works.

- B. (Repealed by ord. no. 6712.)
- C. It shall be the responsibility of the owner of the dumpster or roll-off box to obtain the permit.
- D. The applicant for a permit shall provide the following information:
 - 1. The name, address, and telephone number of the owner.
 - 2. A 24-hour emergency contact name and telephone number.
 - 3. The size of the dumpster.
 - 4. The expected length of occupancy of the right-of-way.
 - 5. The street address of the dumpster location.
- E. Each dumpster or roll-off box shall be provided with safety markings consisting of the following approved methods:
 - 1. Alternating red and white DOT-C2-approved 2-inch-wide retroreflective conspicuity tape applied along at least 50% of the exterior sides of the dumpster or roll-off box and entirely across the front and back ends of same. In addition, two 2-inch-by-12-inch segments of white retroreflective conspicuity tape shall be placed together to form an inverted "L" on the exterior of each upper corner of the dumpster or roll-off box.
 - 2. One Type I barricade with an attached flashing yellow light. This barricade shall be placed on the side of the dumpster or roll-off box that faces approaching traffic. For a dumpster or roll-off box in an alley or sidewalk area, barricades of this type shall be provided on both sides of the dumpster or roll-off box that face vehicular or pedestrian traffic.
- F. Dumpsters or roll-off boxes shall be located according to the following requirements:
 - 1. Must be adjacent to or as close as possible to the work area.
 - 2. Permission must be obtained by the permit applicant from the affected property owner, if placed in front of a business or residence that is not affected by the work.
 - 3. Must allow a minimum of 11 feet for traffic when placed in an alley. Both ends of the dumpster or roll-off box must be delineated as in subsection E. of this section.
 - 4. Must not block fire exits or be placed under fire escapes.
 - 5. Must maintain 5 feet for pedestrian access when placed on a sidewalk.
- Protective barricades, together with signs at both ends, must be used to define the pedestrian passageway.
- G. Dumpsters or roll-off boxes shall not be placed:
 - 1. Within a parking stall specifically designated according to section 346.50 of the Wisconsin Statutes for handicapped purposes.
 - 2. Within fifteen feet of any hydrant.
 - 3. Within twenty feet of any alley entrance.
 - 4. Within fifty feet of any street intersection.
 - 5. Within a traffic lane.
- H. The public works director or designee is authorized to approve placement of a dumpster or roll-off box in other locations within the public right-of-way, if in his or her judgment, the placement will not present a hazard to the public if adequate warning devices and safety measures are used.
- I. Failure to take corrective action within forty-eight hours of notification may result in the removal of the offending dumpster or roll-off box by city of Eau Claire personnel. Costs incurred in the removal may be charged against the owner of the dumpster or roll-off box.
- J. The penalty for violation of any provision of this section shall be a forfeiture of not less than \$50.00 per day or more than \$200.00 per day for each violation.
- K. Any person, firm, or corporation who repeatedly violates the conditions of this section shall be subject to review as described in section 8.32.040, License or permit--Revocation or suspension.
- L. A permit fee, as stated in the City of Eau Claire Fees and Licenses Schedule, shall be charged for each dumpster or roll-off box placed within the public right-of-way. (Ord. 6712, 2006; Ord. 6477, 2004).

13.12.060 Sale of goods. It is unlawful for any person, firm or corporation to set up or park any stand, wagon, automobile or other vehicle upon any of the public streets, sidewalks, boulevards, parkways or alleys in the city for the purpose of selling therefrom or exposing for sale any meat, provisions, popcorn, ice cream, confections, refreshments or other eatables or any goods, wares or merchandise, or for carrying on any business or trade whatsoever. (Prior code §5.17).

13.12.062 Sidewalk cafe permit. A. Purpose: To further encourage the revitalization of the downtown and Water Street areas of the city, including the development of social and economic activity, the city council finds and determines:

1. That there exists a need for outdoor eating facilities in certain areas of the city to provide a unique environment for relaxation, social interaction, and food consumption.

2. That sidewalk cafes will permit enhanced use of the available public rights of way, will complement the restaurants operating from fixed premises, and will promote economic activity in an area.

3. That the existence of sidewalk cafes encourages additional pedestrian traffic and their presence may impede the free and safe flow of pedestrians. Therefore, a need exists for regulations and standards for the existence and operation of sidewalk cafes to ensure a safe environment.

4. That the establishment of permit conditions and safety standards for sidewalk cafes is necessary to protect and promote public health, safety, and welfare.

B. Definitions.

1. "Sidewalk cafe" shall mean an expansion of a full service restaurant creating an outdoor dining facility on part of the public right of way that immediately adjoins the licensed premises for the purpose of consuming food or beverages prepared at the full service restaurant adjacent thereto. "Full service restaurant" shall mean an establishment requiring a restaurant license under chapter 8.16 of the city code of ordinances whose food sales are greater than 50 percent of its gross receipts.

2. "Downtown" shall mean the qualifying properties lying within the area bounded on the north by Cameron Street and William Street as extended to the Chippewa River, on the east by Dewey Street, on the south by Lake Street, and on the west by Fifth Avenue/Fulton Street/Whipple Street. The permitted area includes sidewalk located on both sides of a described boundary street.

3. "Water Street" shall mean the qualifying properties lying within the area bounded on the north by Chippewa Street, on the east by Second Avenue, on the south by the Chippewa River, and on the west by Ninth Avenue. The permitted area includes sidewalk located on both sides of a described boundary street.

C. Permit required.

1. Notwithstanding the provisions of section 13.12.060, a full service restaurant located in the downtown or Water Street areas of the city may apply to the director of public works or designee for a permit to allow a restaurant to operate a sidewalk cafe. The director of public works or designee may approve, approve with conditions or restrictions, or deny a permit where necessary to protect the public health, safety or welfare, to prevent a nuisance from developing or continuing, or due to violation of this section, the city code of ordinances, or applicable state or federal law.

2. Before a permit may be issued, the application and site plan shall be reviewed for approval by the city/county health, city fire inspections and city building inspections departments.

3. Each permit shall be effective for one year, from April 1 until March 31.

4. The permit issued may be transferred to a new owner only for the location and area listed in the permit. The transferred permit shall be valid only for the remainder of the period for which it was originally issued. A new certificate of insurance must be filed with the city within 30 days of the permit transfer.

D. Permit application. Application for a permit to operate a sidewalk cafe shall be submitted to the department of public works and shall include at least the following information:

1. Completed city application form.

2. Copy of a valid restaurant license in the city as required by chapter 8.16, Food Service Establishments.

3. Copy of a current certificate of insurance in the amount and categories required by section 13.12.062(H).

4. A layout, drawn to scale, which accurately depicts the dimensions of the existing sidewalk area and adjacent private property, the proposed location of the sidewalk cafe, size and number of tables, chairs, steps, planters, and umbrellas, location of doorways, trees, parking meters, bus shelters, sidewalk benches, trash receptacles, and any other sidewalk obstructions, either existing or proposed, within the pedestrian area. This layout shall be submitted on 8½" x 11" paper, suitable for reproduction.

5. Photographs, drawings, or manufacturer's brochures fully describing the appearance and dimensions of all proposed tables, chairs, umbrellas or other objects related to the sidewalk cafe.

6. A non-refundable application fee, as stated in the City of Eau Claire Fees and Licenses Schedule.

E. Permit fees.

1. The application fee for an initial sidewalk cafe permit, with or without an alcohol license expansion, shall be as stated in the City of Eau Claire Fees and Licenses Schedule.

2. The annual renewal fee for a permit, with or without an alcohol license expansion, shall be as stated in the City of Eau Claire Fees and Licenses Schedule.

F. Sidewalk cafe standards. The following standards, criteria, conditions, and restrictions shall apply to all sidewalk cafes, provided, however, that the director of public works or designee may impose additional conditions and restrictions to protect and promote the public health, safety, or welfare, to prevent a nuisance from developing or continuing, and to comply with this section, the city code of ordinances, and all applicable state and federal laws.

1. Sidewalk cafes are restricted to the public right of way immediately adjacent to the licensed full service restaurant to which the permit is issued.

2. Tables, chairs, umbrellas or other fixtures in the sidewalk cafe:

a. Shall not be placed within five feet of bus stops, taxi stands, fire hydrants, alleys, bike racks. Shall not be placed within five feet of a pedestrian crosswalk or corner curb cut.

b. Shall not block designated ingress, egress, or fire exits from or to the restaurant, or any other structures.

c. Shall be readily removable and shall not be physically attached, chained or in any manner affixed to any structure, tree, post sign, or other fixture, curb, or sidewalk.

d. Shall be removed when the sidewalk cafe is not in operation. Plant tubs may remain in the sidewalk cafe if approved under section 13.12.062(F)(5).

e. Shall be maintained in a clean, sanitary and safe manner.

3. Sidewalk cafes shall be located in such a manner that a distance of not less than four feet is maintained at all times as a clear and unobstructed pedestrian path. For the purpose of the minimum clear path, parking meters, traffic signs, trees, and all similar obstacles shall be considered obstructions.

4. The sidewalk cafe, along with the sidewalk and roadway immediately adjacent to it, shall be maintained in a neat and orderly manner at all times. Debris shall be removed as required during the day and again at the close of each business day.

5. Plant tubs shall be located in the sidewalk cafe with the approval of the director of public works or designee. Plant tubs shall be maintained in a safe, neat, clean, and presentable manner.

6. Umbrellas and other decorative material shall be treated wood, canvas, cloth, or similar material that is manufactured to be fire-resistant. No portion of an umbrella shall be less than six feet eight inches above the sidewalk.

7. Signs to be used in the sidewalk cafe shall be in accordance with chapter 16.16 of the city code of ordinances.

8. No food preparation, food storage, refrigeration apparatus, or equipment shall be allowed in the sidewalk cafe.

9. No amplified entertainment shall be allowed in the sidewalk cafe unless authorized as part of a special event.

10. A copy of the site plan, as approved in conjunction with the current sidewalk cafe permit, shall be maintained on the permittee's premise and shall be available for inspection by city personnel at all times.

11. The sidewalk cafe permit covers only the public right of way described in the permit. Tables and chairs on private property will be governed by other applicable regulations.

12. Sidewalk cafes shall not operate after 10:00 p. m. or before 6:00 a. m.

13. The use of a portion of the public right of way as a sidewalk cafe shall not be an exclusive use. All public improvements, including, but not limited to trees, light poles, traffic signals, pull boxes, or manholes, or any public initiated maintenance procedures, shall take precedence over said use of the public right of way at all times. The Chief of Police or designee may temporarily order the removal of the sidewalk cafe for special events, including but not limited to, parades, sponsored runs or walks, or for public health and safety.

14. The city, its officers and employees, shall not be responsible for sidewalk cafe fixtures that are relocated or damaged.

G. Alcohol licensing. Alcohol beverages are not allowed on the public sidewalk at any time. Such activity is governed by chapters 5.28 and 9.52 of the city code of ordinances and by state laws. Notwithstanding the foregoing, the sale and service of alcohol beverages by full service restaurants located in the downtown or Water Street areas may be permitted, provided an expansion of the premise is approved by the City Council for the area described in the sidewalk cafe permit.

H. Liability and insurance. The permittee agrees to indemnify, defend, save, and hold harmless the City, its officers and employees, from any and all claims, liability, lawsuits, damages, and causes of action, which may arise out of the permit or the permittee's activity on the sidewalk cafe.

1. Commercial liability insurance in the amount of at least \$1,000,000 per occurrence for bodily injury and property damage, with the city of Eau Claire named as an additional insured, shall show that the coverage extends to the area used for the sidewalk cafe.

2. The permittee shall provide the city with an original certificate of insurance as evidence that the requirements set forth in this section have been met prior to commencing operations.

I. Revocation or suspension. The approval of a sidewalk cafe permit is conditional at all times. A sidewalk cafe permit may be revoked or suspended by the director of public works or designee where necessary to protect the public health, safety, or welfare, to prevent a nuisance from developing or continuing, in emergency situations, or due to noncompliance with this section, the city code of ordinances, or applicable state or federal law.

J. Appeal. A revocation, suspension, or denial of a permit may be appealed by the permittee to the administrative review board under ch. 1.06. The permit suspension or revocation shall remain in effect pending the hearing.

K. Penalty. The penalty for violation of this section shall be a forfeiture of not less than \$50 or more than \$500 per day for each violation, together with the costs of prosecution. (Ord. 6586, 2005).

13.12.065 Sidewalk cart food vendors. Notwithstanding the provisions of sections 13.12.060 and 9.76.100 of this code, the city council may issue licenses for sidewalk cart food vendors for the sale of specified food and beverage items from mobile pushcarts on the public sidewalks, which shall be operated and conducted in accordance with the following conditions:

A. Each applicant shall file an application with the city clerk or designee on forms provided by the city for each proposed sidewalk cart. The city clerk or designee may require such information on the application as the city clerk or designee considers reasonable and necessary.

B. Each applicant shall pay an annual fee in an amount as stated in the city of Eau Claire fees and licenses schedule for each proposed sidewalk cart.

C. No application shall be accepted for filing unless the applicant possesses the proposed sidewalk cart ready and available for inspection.

D. Each sidewalk cart shall be separately licensed and such license shall not be transferable to another sidewalk cart.

E. All sidewalk cart food vendor licenses shall expire on March first of each year, subject to renewal year to year thereafter.

F. Each sidewalk cart shall be non-motorized and capable of being moved and kept under control by one person. The city council may grant a special license to a handicapped person to operate a sidewalk cart propelled by electric motor, provided that the applicant shall meet all other conditions for a license.

G. All sidewalk carts shall be equipped with at least one leak-proof container for the deposit of waste, garbage, litter, and refuse. All such containers shall be kept covered with tight-fitting lids. When leaving the sales area, the licensee and his employee(s) shall be responsible for the removal of all litter resulting from his business or customer's use of his business.

H. Affixed permanently and prominently to each cart shall be a sign no smaller than twelve (12) inches by twelve (12) inches displaying the name, address, and telephone number of the licensee.

I. Each licensee shall provide proof of liability insurance for any single accident and for any property damage in the amount of \$250,000. A certificate of insurance for such coverage shall be delivered to the city clerk or designee prior to issuance of a license.

J. Each licensee shall comply with all state codes and standards relating to the serving and selling of food or food products.

K. No cart operator shall use noise-makers, other than bells, lights, or music to attract customers. Such bells and music shall not be used after 9:00 p.m. on any day.

L. No cart shall operate before 8:00 a.m. or after 11:00 p.m. on any day except in the downtown and Water Street areas, as defined in section 13.12.062 B., wherein no cart shall operate between the hours of 2:00 a.m. and 8:00 a.m.

M. No cart shall operate in any street, alley, or boulevard.

N. No cart shall operate on any public sidewalk within 50 feet of any business selling the same type product. Further, no cart shall operate on any public sidewalk within 50 feet of any concessions operation or other sidewalk cart vendor selling the same type product.

O. All vending activities shall be conducted so as to maintain a sufficient width of unobstructed public pedestrian walkway adjacent to the vending site. Any vending activities within the city's public parks shall only be permitted on the public sidewalks along the outside perimeter of those parks and shall not include the park's bicycle or walking paths, with the exception of public areas as stated in subsection P. hereof.

P. Sidewalk carts may be allowed to operate within the publicly owned property of Phoenix Park.

Q. A vendor shall be present within the vending site at all times during which items are displayed or sold.

R. The penalty for violation of any provision in this section shall be a forfeiture of not less than \$50.00 per day nor more than \$200.00 per day for each violation, together with the cost of prosecution. (Ord. 6706, 2006; Ord. 6408, 2003).

13.12.070 Violation--Penalty. Any person, firm or corporation violating any provisions of this chapter, except as otherwise provided, shall upon conviction thereof, forfeit not less than five dollars, nor more than fifty dollars, together with the costs of prosecution and every day of violation shall constitute a separate offense. On default of payment of such forfeiture the violator so convicted shall be confined to the county jail of Eau Claire County for a term not exceeding thirty days unless such forfeiture and costs are sooner paid. (Prior code §5.18).

Chapter 13.16**MATERIALS ON STREETS****Sections:****13.16.010 Obstructing--Littering--Vegetation control.****13.16.020 Officers to cause removal.****13.16.030 Scattering papers unlawful.**

13.16.010 Obstructing--Littering--Vegetation control. A. No person shall place, deposit or cast or cause to be placed, deposited or cast upon any street, alley, gutter, sidewalk or public ground within the city any grass clippings, leaves, ashes, rubbish, paper, snow or ice or anything or substance whatever which may obstruct any such street, alley, gutter, sidewalk or public ground, or impede, hinder or endanger travel thereon, or which shall or may injure or disfigure the same, or tend to the injury or disfigurement thereof, or tend to render the same unclean or a nuisance; nor shall any person cause or suffer any motor vehicle or other vehicle, or any box, crate, bale, package, merchandise or other thing to stand or be in or upon any such street, alley, sidewalk or public ground longer than may be actually necessary, under a penalty of up to fifty dollars for each and every offense.

B. No person shall permit any vegetation growing on premises owned or controlled by him to obstruct or impede, hinder or endanger travel upon any street, sidewalk, or alley under like penalty. (Ord. 4246 §4, 1982; Ord. 3936 §4, 1978; Ord. 3639, 1976; prior code §5.01).

13.16.020 Officers to cause removal. In case any timber, wood, lumber, rubbish or any substance or material whatever, mentioned in the foregoing section, shall be found remaining or lying upon any street, alley or sidewalk or public ground within the limits of the city in violation of the foregoing section it shall be the duty of the chief of police or any public officer forthwith to notify and require, by either written or verbal notice, any person or persons who may have placed or caused or permitted to be placed such substance or thing upon such street, alley, sidewalk or public ground, or who may be the owner or have the control of such timber, wood, lumber or other substance, or who may suffer the same to lie or remain upon such street, alley, sidewalk or public ground, to immediately remove such thing or substance, or cause the same to be removed therefrom, and in case such person or persons shall neglect or fail to remove or cause to be removed such substance or thing within twenty-four hours after being so notified, it shall be the duty of said police officers to remove the same or cause it to be removed from the street, alley, sidewalk or public ground to some convenient and safe place within the city at the expense of such person or persons, to be recovered in an action against him or them, to be prosecuted in the name of the city. (Prior code §5.02).

13.16.030 Scattering papers unlawful. A. No person, firm or corporation shall throw or distribute or cause to be thrown or distributed upon the streets, or alleys or public places within the limits of the city, or in or upon any places adjacent to any streets, alleys or public places, where the same can or may be misplaced, blown or be likely to be carried or placed upon any of the streets, alleys or public places within the city, any waste paper, card, pamphlet, advertising bill, poster or written or printed matter enclosed in an envelope, wrapper or other, or any other waste materials.

B. Any person, firm or corporation violating the provisions of this section shall be guilty of an offense and punished by a forfeiture of up to \$500. (Ord. 4460, 1984; Prior code §5.03).

Chapter 13.20

MATERIALS ON SIDEWALKS*

Sections:

13.20.010 Cleaning of snow and ice required.

13.20.020 Articles for delivery.

13.20.010 Cleaning of snow and ice required. A. The owner of every lot or parcel of land shall keep the public sidewalk adjacent to said premises reasonably free and clear from snow and ice and shall clear the snow from such sidewalk within twenty-four hours following a snowfall. Any owner violating the provisions of this section shall be subject to a forfeiture of not less than five dollars nor more than fifty dollars for each offense. Upon the failure of an owner to clear any sidewalk as required under this section, the City shall cause the sidewalk to be so cleared and shall cause the cost thereof to be levied as a special tax chargeable to such lot or parcel of land to be collected like other taxes upon real estate, as prescribed in Wis. Stats. s. 66.615

B. "Sidewalk" as used in this chapter means any sidewalk, path, walk or way regularly used by pedestrians along any opened and established street and within the boundaries of such street. (Ord. 4262, 1982; Ord. 3599 (part), 1976; prior code §5.12).

13.20.020 Articles for delivery. A. It is lawful for any person to place and leave for a period not exceeding two hours on three feet of the outer edge of the sidewalk in front of his building or buildings any goods, wares or merchandise which he shall be in the act of receiving or delivering. This section shall only apply to sidewalks of ten or more feet in width. Any storage of material on a sidewalk for a period and on a space different than that permitted by this section shall be unlawful.

B. Any person, firm or corporation violating any of the provisions of this section shall, upon conviction thereof, be punished by a fine of not more than one hundred dollars nor less than ten dollars with the costs of prosecution. (Prior code §5.14).

* For provisions of general charter law authorizing cities to pass rules to prohibit obstructions of sidewalks, see WSA 62.15.

Chapter 13.24**ENCROACHMENTS*****Sections:**

- 13.24.010 State statutes adopted.**
- 13.24.020 Special privileges--Designated.**
- 13.24.030 Special privileges--Applications.**
- 13.24.040 Special privileges--Council action.**
- 13.24.050 Special privileges--Mandatory conditions.**
- 13.24.060 Special privileges--Optional conditions.**
- 13.24.070 Applicability--Privilege holder responsibilities.**
- 13.24.075 Neighborhood mailboxes permitted--Conditions.**
- 13.24.080 Violations--Penalty.**

13.24.010 State statutes adopted. Section 66.0425 of the Wisconsin Statutes, entitled "Privileges in Streets" and Section 86.04 of the Wisconsin Statutes, entitled "Highway Encroachments" are adopted by reference as fully as if herein set out verbatim. (Prior code §5.20(1)).

13.24.020 Special privileges--Designated. The following special privileges in streets and alleys in the city are encroachments and shall include, but not be limited to the following:

Stairs and steps; Sidewalk wells, chutes or openings; Street scales; Loading platforms; Overhanging fire escapes; Gas and/or oil pumps; Areas under or over streets or alleys; Other uses not specified. (Prior code §5.20(2)).

13.24.030 Special privileges--Applications. A. Property owners presently having or using any of the foregoing or any special privileges in streets or alleys or contemplating installing such, shall forthwith apply to the city council for authority to continue or install the same, as the case may be, on the terms and conditions hereinafter stated.

B. Such application shall be filed with the city clerk and shall describe the special privilege, its use, location and other pertinent and material facts as the council may deem necessary. (Prior code §5.20(3)).

13.24.040 Special privileges--Council action. The council may in its discretion grant or deny such application. If denied the council may, in the case of an existing use, order the same removed within thirty days pursuant to the terms, conditions and penalties provided for in Section 86.04 of the Wisconsin Statutes. In the event of a failure or refusal upon the part of the property owner, the council may cause the removal thereof and assess the costs thereof to the property. (Prior code §5.20(5)).

13.24.050 Special privileges--Mandatory conditions. If said application is granted by the city council, it shall be granted only upon the following conditions:

A. By its acceptance the applicant shall become primarily liable for damages to person or property by reason of the granting of the privilege; be obligated to remove the same upon ten days'

* For statutory provisions authorizing cities to abate encroachments on highways, see WSA 86.05; for provisions of general municipality law regarding privileges in streets, see WSA 66.0425.

notice by the state of Wisconsin or the city; waive the right to contest in any manner the validity of this chapter or Section 66.0425 of the Wisconsin Statutes; waive the right to contest in any manner the amount of compensation charged for the granting of such privilege.

B. The applicant file a bond not exceeding ten thousand dollars running to the city and such third parties as may be injured, to secure the performance of the above stated conditions, said bond to be approved by the city council. (Prior code §5.20(5)).

13.24.060 Special privileges--Optional conditions. If said application is granted by the city council, it may, if the circumstances warrant, in addition:

A. Require that the applicant furnish proof that sufficient and proper public liability insurance is carried which will afford adequate protection to the city in connection with said privilege;

B. Require such alteration, reconstruction and safeguarding of any special privilege as it may deem to be necessary;

C. Require owners and/or contractors to execute waivers or agreements in favor of the city exonerating it from any liability for damages connected with the use of such special privilege, or caused by construction, operation or maintenance of such special privilege. (Prior code §5.20(6)).

13.24.070 Applicability--Privilege holder responsibilities. A. Compensation for the special privilege shall be paid into the general fund and be fixed by a board consisting of the director of public works, the city attorney, and the city manager.

B. The holder of the special privilege shall be entitled to no damages for removal of the obstruction or excavation, and if he does not remove the same upon due notice, it shall be removed at his expense.

C. Third parties whose rights are interfered with by the granting of the privilege shall have right of action against the holder of the special privilege only.

D. This chapter shall not apply to public service corporations, or to cooperative associations organized under Chapter 185 of the Wisconsin Statutes to render or furnish telephone, gas, light, heat or power, but such corporations shall secure permit from the proper official for temporary obstructions or excavation in a highway and shall be liable for all injuries to person or property thereby.

E. This chapter does not apply to such obstruction or excavation for not longer than three months, and for which permit has been granted by the proper official.

F. Obstruction or excavation by a city or village in any street, alley or public place belonging to the city is included in this chapter. (Prior code §5.20(7)--(12)).

13.24.075 Neighborhood mailboxes permitted--Conditions. A. In this section, "Neighborhood delivery and collection box unit" means a centralized delivery mail receptacle serving more than a single postal service customer and which is provided for by the regulations of the U.S. Postal Service (Vol. 46, CFR No. 43, dated March 1, 1981).

B. Neighborhood delivery and collection box units may be allowed to be placed by the U.S. Postal Service within a street or alley, without following the procedures otherwise described in this chapter, at locations which are not materially detrimental to and do not endanger the use of the street or alley or any public utility facility and which are in accordance with the health, safety and welfare of the public, all as determined by the City Engineer. (Ord. 4383 §1, 1983).

13.24.080 Violations--Penalty. Any person violating any of the provisions of this chapter shall, upon conviction thereof, be fined a sum not exceeding one hundred dollars together with costs of prosecution, and in default of payment thereof, be imprisoned in the county jail for not more than thirty days, unless such fine and costs are sooner paid. (Prior code §5.20(14)).

Chapter 13.28**STREET NAMES--HOUSE NUMBERING****Sections:**

- 13.28.010 Street names--Council authority.**
- 13.28.020 Street names--Hearing--Notice.**
- 13.28.030 Street names--Changed by ordinance.**
- 13.28.040 House numbering--According to map.**
- 13.28.050 House numbering--Correcting existing numbers.**
- 13.28.060 House numbering--Placement of numbers.**
- 13.28.070 House numbering--Second floor.**
- 13.28.080 House numbering--Duties of superintendent of inspections.**
- 13.28.090 Violation--Penalty.**

13.28.010 Street names--Council authority. The city council shall determine the names of streets and may change such names when, in its opinion, such change is for the public benefit and welfare. (Prior code §5.21(1)).

13.28.020 Street names--Hearing--Notice. A. Hearing. The council may on its own motion or upon a petition by any freeholder(s) order a hearing to consider such change(s), to be held at a time fixed by it at which time all persons interested may be heard.

B. Notice of Hearing. Notice of such hearing shall be published at least once in the official newspaper not less than seven days prior to such hearing. (Prior code §5.2(1), (3)).

13.28.030 Street names--Changed by ordinance. Change of street names shall be by ordinance. (Prior code §5.21 (4)).

13.28.040 House numbering--According to map. All lots and parts of lots and each of them in the city shall be numbered in accordance with a certain map now on file in the office of the superintendent of inspections which is designated "House Numbering Map". All lots and parts of lots hereafter platted shall be numbered to conform as nearly as possible to the general scheme of numbering as outlined on said map. (Ord. 4045 §I, 1980; Prior code §5.19(a)).

13.28.050 House numbering--Correcting existing numbers. A. The owner of any dwelling, tenement or building required by this chapter to be numbered, and which is not numbered or is incorrectly numbered shall cause the same to be numbered or renumbered, as the case may be, forthwith and not later than thirty days from the effective date hereof, and shall thereafter maintain the same, in compliance with this chapter.

B. It shall be the duty of each owner of any dwelling, tenement or building fronting upon any street, within thirty days from the effective date of the ordinance codified in this chapter, to properly number the same as herein provided and shall thereafter maintain the same. (Prior code §5.19(b)).

13.28.060 House numbering--Placement of numbers. A. All numbering shall be in numerals not less than two and one-half inches in height conspicuously placed immediately above, on or at the side of the front or main entrance door of each dwelling, tenement or building so that the number can be plainly seen from the street.

B. Any dwelling, tenement or building with an entrance, exit door or garage adjacent to an alley shall also conspicuously post numbers in numerals not less than two and one-half inches in height placed immediately above, on, or at the side of the entrance, exit door, or garage facing the alley.

C. Whenever any structure is situated more than eighty feet from the street line, the number of such structure shall be conspicuously displayed at the street line, near the walk, driveway or common entrance thereto or upon the gate post, fence, tree, post or other appropriate place so as to be easily discernible from the street. (Ord. 6932, 2010; Prior code §5.19(c)).

13.28.070 House numbering--Second floor. Where the second floor of a structure is separately occupied the same shall be given a one-half number in addition to the number of the first floor. In multiple dwellings numbering shall be as directed by the superintendent of inspections. (Ord. 4045 §2, 1980; Prior code §5.19(d)).

13.28.080 House numbering--Duties of superintendent of inspections. It shall be the duty of the superintendent of inspections to inform any party applying therefor, of the number(s) applicable to any lot(s) as provided by this chapter. The superintendent of inspections shall keep said "House Numbering Map" current, and the same shall be open to inspection of all persons at regular office hours. (Ord. 4045 §3, 1980; prior code §5.19(e)).

13.28.090 Violation--Penalty. If the owner of any dwelling, tenement or building required to be numbered or renumbered by this chapter neglects or fails to so do within said thirty-day period, the superintendent of inspections shall cause to be served upon such owner a notice requiring such owner to comply with this chapter, and if he neglects or fails to do so, he shall be deemed to have violated the same. Upon conviction thereof he shall forfeit not less than five dollars nor more than ten dollars together with the costs of prosecution and in default of payment thereof shall be imprisoned in the county jail not to exceed ten days, unless such fine and costs are sooner paid. Each day that a violation continues to exist shall constitute a separate offense. (Ord. 4045 §4, 1980; Prior code §5.19(f)).

Chapter 13.32

VACATION OF STREETS AND ALLEYS*

Sections:

13.32.010 Utility reservation.

13.32.020 Vacation--Fee.

13.32.010 Utility reservation. A. Whenever the city council shall, by resolution, order any street or alley or any part thereof vacated, after due procedure, it shall be upon the condition that such vacated street or alley or part thereof be charged with a reservation of the right of the city or any public utility to enter upon the same to install, repair, maintain or relocate any public utilities or accessories. Said reservation of right shall apply to presently located utilities or any that may hereafter be installed.

B. Subsection A hereof shall apply to all street and alley vacations whether or not such resolution shall contain said reservation clause. (Prior code §5.22).

* For provisions of general charter law regarding the opening or changing of streets, see WSA 62.22(4) et seq.

13.32.020 Vacation--Fee. The petition for the vacation and discontinuance of any street or alley within the city shall be filed in the office of the city clerk. The petitioner or petitioners shall at the time of filing the petition pay to the city clerk a filing fee as stated in the City of Eau Claire Fees and Licenses Schedule. Prior to the holding of any hearing thereon, the petitioner or petitioners shall make payment to the city in an amount equal to all costs incurred, or reasonably anticipated to be incurred, by the city in connection with the publication and service of notices and the filing of papers and documents in connection therewith. The filing fee previously paid shall be applied toward the payment of such costs. (Ord. 6363 §34, 2002; Ord. 4032, 1979).